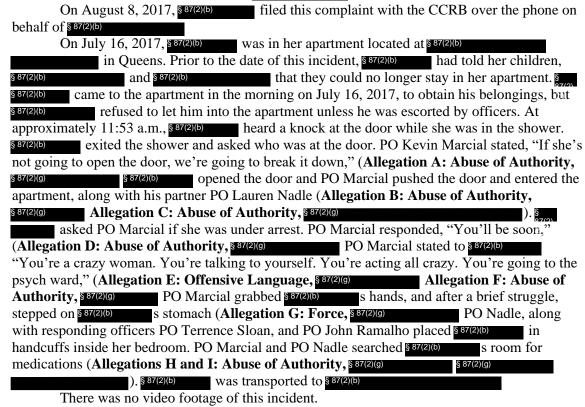
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	☐ Discourt	. U.S.
William MacLure		Squad #6	201706380		Abuse	O.L.	☐ Injury
Incident Data(s)		I costion of Insidente		l D	Precinct:	18 Mo. SOL	EO SOL
` '		!	ocation of Incident:				
Sunday, 07/16/2017 11:53 AM		§ 87(2)(b)			101	1/16/2019	1/16/2019
Date/Time CV Reported		CV Reported At:	How CV Reporte	d:	Date/Time	Received at CC	RB
Mon, 08/07/2017 8:19 AM		CCRB	Phone		Mon, 08/0	7/2017 8:19 AI	M
Complainant/Victim	Type	Home Add	ress				
Witness(es)		Home Add	ress				
Subject Officer(s)	Shield	TaxID	Command				
1. POF Lauren Nadle	28936	957886	101 PCT				
2. POM Kevin Marcial	7072	937879	101 PCT				
Witness Officer(s)	Shield N	o Tax No	Cmd Name				
1. POM Dominic Alongi	19495	951497	101 PCT				
2. SGT Robert Nagle	2105	946051	101 PCT				
3. POM Joseph Ferrigno	15647	951729	101 PCT				
4. POM Terrence Sloan	29057	951271	101 PCT				
5. POM John Ramalho	22226	962709	101 PCT				
6. POM Michael Stark	29022	961326	101 PCT				
Officer(s)	Allegatio	on			Inve	estigator Reco	mmendation
A.POM Kevin Marcial		olice Officer Kevin M	arcial threatened to	damag	ge		
	§ 87(2)(b)	s property.					
B.POM Kevin Marcial	Abuse: P	Police Officer Kevin M in Que		9)			
C.POF Lauren Nadle	Abuse: P	Police Officer Lauren N					
Cir or Lauren reade	riouse. I	in Que					
D.POM Kevin Marcial	Abuse: P § 87(2)(b)	Abuse: Police Officer Kevin Marcial threatened to arrest \$87(2)(b)					
E.POM Kevin Marcial	Off. Lang	Off. Language: Police Officer Kevin Marcial made remarks based on §87(2)(b) s mental health.					
F.POM Kevin Marcial		Police Officer Kevin M to the hospi	arcial forcibly remo	ved			
G.POM Kevin Marcial	Force: Po	olice Officer Kevin Ma		force			

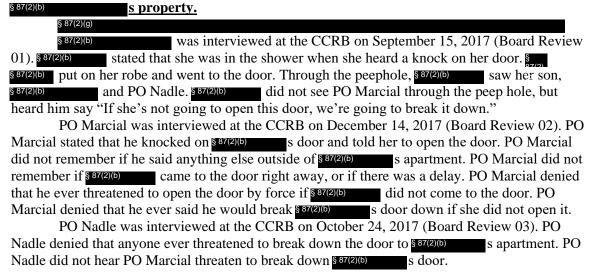
Officer(s)	Allegation	Investigator Recommendation
H.POM Kevin Marcial	Abuse: Police Officer Kevin Marcial searched in Queens.	
I.POF Lauren Nadle	Abuse: Police Officer Lauren Nadle searched § 87(2)(b) in Queens.	

Case Summary

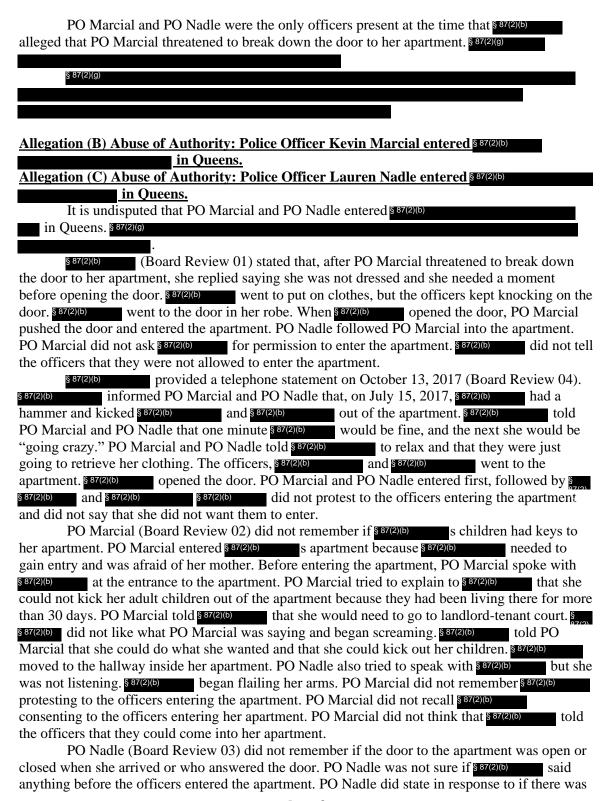


Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Kevin Marcial threatened to damage 87(2)(b) s property.



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any difficulty entering the residence, that there was "some hesitation on \$87(2)(b) s] end behind the door." PO Nadle stated that, "it wasn't immediate," and that was all she could remember. PO Nadle did not remember how long the officers were outside the apartment before they entered. PO Nadle was not aware of anyone other than \$87(2)(b) being inside the apartment at the time. PO Nadle did not remember if \$87(2)(b) ever stated that she did not want the officers to enter the apartment. When the officers ultimately entered the apartment, \$87(2)(b) was standing right by the door inside the apartment. PO Nadle did not remember if \$87(2)(b) was in front of the door or to the side of the door. PO Nadle denied that \$87(2)(b) protested to the officers entering the apartment. PO Nadle stated that \$87(2)(b) opened the door and told the officers to come into the apartment. PO Nadle and PO Marcial both entered the apartment. PO Nadle did not remember who entered the apartment first.

Courts have determined that officers may enter an apartment without a warrant under the emergency doctrine if (1) they have a reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property; (2) the search is not primarily motivated by intent to arrest and seize evidence; and (3) there is some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched, People v. Mitchell, 39 N.Y.2d 173 (Board Review 05), Brigham City v. Stuart, 547 U.S. 398 (Board Review 06).

Courts have also determined that officers may enter an apartment if they receive voluntary consent, <u>People v. Gonzalez</u>, 39 N.Y.2d 122. (Board Review 07).

In <u>People v. Sigl</u>, 107 A.D.3d 1585 (Board Review 21), the courts determined that the gesture of opening the door, leaving it wide open, and walking away from it could be interpreted by the police to be implied consent, even if they do not receive expressed consent.

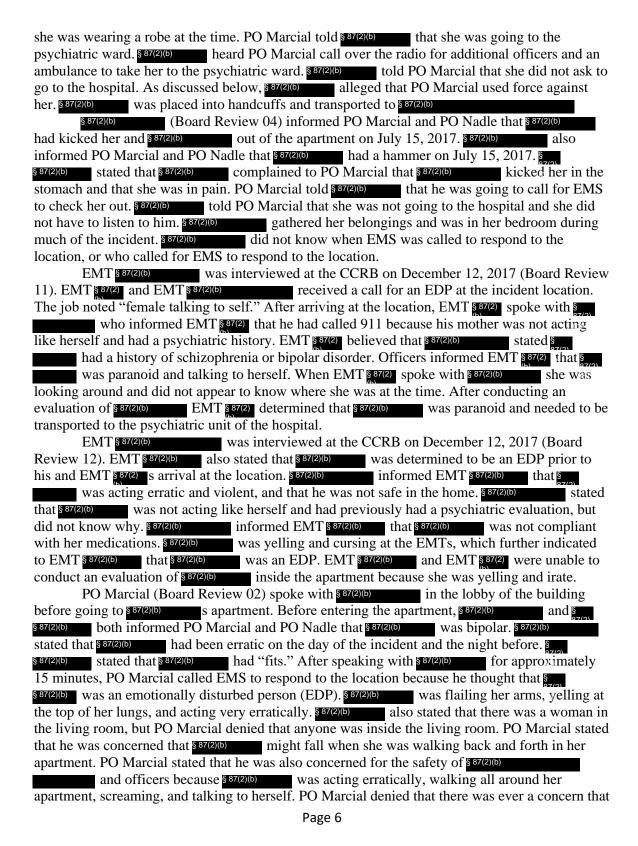
§ 87(2)(g)	
§ 87(2)(g)	
· ()(0)	
§ 87(2)(g)	

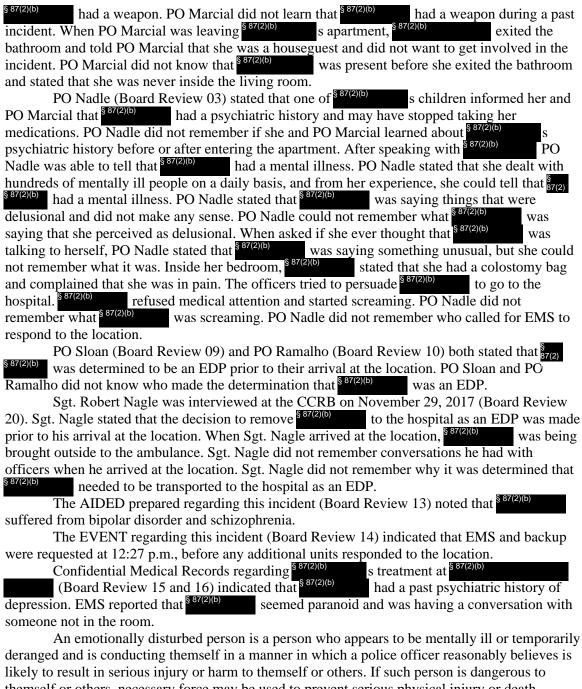
Allegation (D) Abuse of Authority: Police Officer Kevin Marcial threatened to arrest

§ 87(2)(b) § 87(2)(g) (Board Review 01) stated that, after the officers entered her apartment, she

(Board Review 01) stated that, after the officers entered her apartment, she turned to walk to her bedroom to change her clothes. PO Marcial told her to stay where she was

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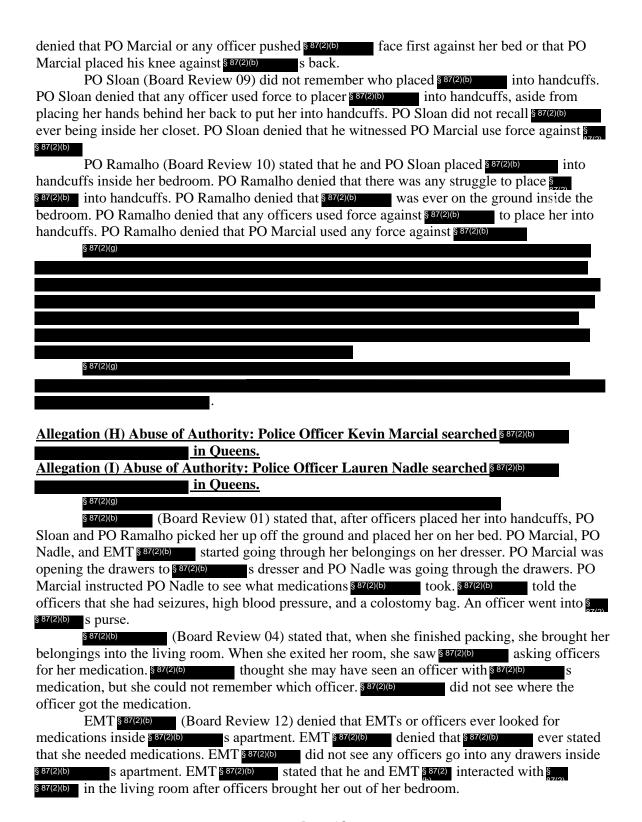


An emotionally disturbed person is a person who appears to be mentally ill or temporarily deranged and is conducting themself in a manner in which a police officer reasonably believes is likely to result in serious injury or harm to themself or others. If such person is dangerous to themself or others, necessary force may be used to prevent serious physical injury or death. Physical force will be used only to the extent necessary to restrain the subject until delivered to a hospital or detention facility. If EDP is unarmed, not violent, and is willing to leave voluntarily, the EDP may be taken into custody without the specific direction of a supervisor. In all other cases, if the EDP's actions do not constitute an immediate threat of serious physical injury or death to themself or others, attempt to isolate and contain the EDP while maintaining a zone of

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safety until arrival of patrol supervisor and Emergency Service Unit personnel, and do not attempt to take the EDP into custody without the specific direction of a supervisor. <u>Patrol Guide</u>
Procedure 221-13 "Mentally III or Emotionally Disturbed Persons (Board Review 17)
§ 87(2)(9)
§ 87(2)(g)
3 C. (=/\g/
·
Allogation (C) Force Police Officer Vevin Marciel used physical force against \$22/900
Allegation (G) Force: Police Officer Kevin Marcial used physical force against \$87(2)(b)
§ 87(2)(g)
(Board Review 01) told PO Marcial again that she needed to change because
she refused to go to the hospital naked. §87(2)(b) and PO Marcial were standing in the hallway
between the entrance to the apartment and \$87(2)(b) seed seed between PO Marcial grabbed \$200
887(2)(b) s hands and placed them behind her back. While grabbing 887(2)(b) s hands, PO
Marcial pushed her into her bedroom and pushed her down onto her bed, face first. \$87(2)(b)
believed that PO Marcial was trying to make it look like she was fighting with him. \$87(2)(6)
was screaming at PO Marcial to get off of her. \$87(2)(6) told PO Marcial that she had a colostomy bag and demanded he let her go. PO Marcial placed his knee onto \$87(2)(6) so back
to hold her against the bed. § 87(2)(b) slipped onto the floor and was on her knees. § 87(2)(b)
tried to stand up, but PO Marcial pushed \$87(2)(b) into a small closet inside her bedroom.
§ 87(2)(b) fell onto the floor on her back inside the closet. While § 87(2)(b) was on the floor, PO
Marcial placed his foot onto her stomach, causing her colostomy bag to break. §87(2)(b) was
bleeding. \$87(2)(b) tried to cover her colostomy bag. \$87(2)(b) screamed that PO Marcial
was hurting her. \$87(2)(b) was wiggling on the ground. \$87(2)(b) stated that one of her
hands got away, but denied that she was trying to move her hands away from PO Marcial. At this
point PO Sloan and PO Ramalho entered \$87(2)(b) s bedroom and assisted in handcuffing
§ 87(2)(b)
(Board Review 04) stated that \$87(2)(b) went inside her room and
slammed her door. \$87(2)(b) saw PO Marcial and PO Nadle walk towards \$87(2)(b) s
room, but could not see what they were doing because she was in her room packing up her
clothing. \$87(2)(b) did not see which officers went into \$87(2)(b) s room because she was in
her bedroom. §87(2)(b) did not remember if she heard a commotion from §87(2)(b) s
room before \$87(2)(b) was brought out of her room in handcuffs. \$87(2)(b) did not see
Page 8

any officers use physical force against § 87(2)(b) § 87(2)(b) did not hear § 87(2)(b) complain that officers physically hurt her. EMT \$57(2) (Board Review 11) believed that PO Marcial and PO Nadle were placing \$1. § 87(2)(b) into handcuffs when he and EMT § 87(2)(b) arrived at the location. § 87(2)(b) following the officers' instructions to put her hands behind her back. EMT (307(2)) did not see the officers place § 87(2)(b) into handcuffs because he was speaking with §87(2)(b) front door. § 87(2)(b) solely complained about the handcuffs being too tight. § 87(2)(6) stated that an officer pinned her against her bed and held her down with his knee or pushed her into her closet. EMT § 87(2) did not witness any officer pin § 87(2)(5) to her bed with his knee or push her into her closet. The officers only informed EMT \$37(2) that they physically placed s hands behind her back. Officers did not inform EMT \$87(2) of any additional force that had to be used against § 87(2)(b) EMT § 87(2)(b) (Board Review 12) believed that PO Marcial told him that § 87(2)(b) did not want to be handcuffed, but that she did not fight PO Marcial. §87(2)(b) EMT § 37(2)(b) thought the officers may have had to place § 37(2)(b) on the ground to place her in handcuffs, but he was not sure. EMT \$87(2)(b) did not see or hear that \$87(2)(b) the ground or pinned against a bed. PO Marcial never informed EMT \$87(2)(b) that he pinned against her bed. EMT § 87(2)(b) stated that if any of those things had happened because it would impact their treatment of § 87(2)(b) and what they told the doctor. EMT never heard §87(2)(b) complain about force used against her by officers. PO Marcial (Board Review 02) stated that PO Sloan and possibly PO Nadle placed \$87(2)(b) into handcuffs. PO Marcial was not in the room when they placed \$87(2)(b) handcuffs and did not witness the officers place \$87(2)(b) into handcuffs. PO Marcial stated that he was standing in the hallway inside the apartment when the officers and § 87(2)(b) in her bedroom. PO Marcial did not hear what was going on in the bedroom. PO Marcial did not think that any force was used to place § 87(2)(b) into handcuffs. PO Marcial went into s bedroom shortly after PO Sloan and PO Nadle. When PO Marcial went into s bedroom, she was sitting on her bed in handcuffs. PO Marcial denied that he used any PO Marcial denied that he ever pinned § 87(2)(b) Marcial denied that he placed his knee on § 87(2)(b) s back. PO Marcial denied that he pushed into her closet. PO Marcial never learned that § 87(2)(b) was inside her closet at any point. PO Marcial denied that \$87(2)(6) was ever on the ground inside her apartment. No officer ever informed PO Marcial what position § 87(2)(b) was in when she was placed into handcuffs. PO Marcial denied that §87(2)(b) ever complained about force used against her by officers. PO Marcial did not remember \$37(2)(b) complaining that she was in pain at any point. PO Marcial denied that § 87(2)(b) ever complained about an issue with her colostomy bag. PO Nadle (Board Review 03) stated that \$\frac{30}{2}(2)(5)\$ threw herself into her closet in her bedroom and then threw herself onto the floor inside her closet. PO Nadle denied that any officer made contact with § 87(2)(b) before she threw herself into the closet. PO Nadle and PO Sloan helped pick § 87(2)(b) up out of the closet and helped her to stand up. PO Nadle and PO Sloan placed § 87(2)(b) s hands behind her back and into handcuffs while she was standing up near the closet. § 87(2)(b) moved her body and flailed her arms. § 87(2)(b) held her arms in front of her body and did not let the officers place her hands behind her back. Additional officers came into the bedroom after PO Nadle and PO Sloan placed \$37(2) into handcuffs. PO Nadle denied that PO Marcial or any officer pushed § 87(2)(b) into the closet. PO Nadle denied that aside from placing her hands behind her back. PO Nadle any force was used against § 87(2)(b) Page 9



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EMT \$87(2) s statement (Board Review 11) was consistent with EMT \$87(2)(5)
statement.
PO Marcial (Board Review 02) did not see any officer go into the drawers of
s 87(2)(6) s dresser or into her purse. PO Marcial denied that he ever went into the drawers in
\$ 87(2)(b) s apartment or her purse. PO Marcial did not remember \$ 87(2)(b) ever asking for
medications. PO Marcial did not see any medication containers in her bedroom and did not
remember learning about medications that § 87(2)(b) took.
PO Nadle (Board Review 03) stated that all of the officers present at the location looked
at \$87(2)(b) s medications. PO Nadle stated that \$87(2)(b) s medications were spread out on
her night stand, on her bed, and on her dresser. PO Nadle stated that all of the medications were
out in the open in different parts of the room. PO Nadle confirmed that she was looking at
\$87(2)(6) s medications. PO Nadle did not remember what any of the medications were. PO Nadle
denied that she opened any drawers in §87(2)(b) s bedroom. §87(2)(b) did advise PO Nadle
to get the medication out of the purse or pouch that was on \$87(2)(b) s bed to give it to EMS.
PO Nadle did check the medications as procedure that officers do to help the AIDED with any
type of medical issues they have. The officers also show the medications to EMS. PO Nadle
stated that if someone has medical issues and requires a medication, the officers have to give it to
them. PO Nadle stated that the officers only looked at the medications.
PO Sloan (Board Review 09) did not recall if he or other officers looked for medications
inside § 87(2)(b) s apartment. PO Sloan did not recall if he or any other officers opened the
drawers to \$87(2)(b) s dresser. PO Sloan did not recall seeing any officer go inside of
\$ 87(2)(b) s purse. PO Sloan did not recall if EMTs ever went through \$ 87(2)(b) s belongings
inside her bedroom.
PO Ramalho (Board Review 10) denied that he searched \$87(2)(b) s bedroom for
medications or go into the drawers of her dresser. PO Ramalho did not recall if any officers
searched §87(2)(b) s room for medications or went into the drawers of her dresser. PO
Ramalho did not recall if any officer went into a purse of \$87(2)(b) s.
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

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Civilian and Officer CCRB Histories

- This was \$87(2)(b) first complaint filed with the CCRB (Board Review 18).
- This was \$87(2)(b) s first complaint filed with the CCRB (Board Review 19). PO Marcial had two previous allegations against him stemming from one complaint. None of the allegations were substantiated. § 87(2)(9)
- As noted above, PO Nadle is no longer a Member of Service.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.:			
Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date

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